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U.S. Disagrees with WTO Dispute Settlement Panel Ruling on Antidumping Act of 1916

The Office of the U.S. Trade Representative said today that the United States disagrees with a World Trade Organization dispute panel, which ruled that the rarely-used U.S. Antidumping Act of 1916 breaks global trade rules.

“The panel erred in concluding that the 1916 Act should be analyzed under antidumping rules despite the many distinctions between the 1916 Act and antidumping measures,” said Ambassador Barshefsky.

Under WTO rules, the United States has the right to appeal the report to the WTO Appellate Body. Once a report is adopted, the United States will determine how to respond.

The dispute panel found that the 1916 Act is inconsistent with WTO rules because the specific intent requirement does not satisfy the material injury test required by the WTO, and that civil and criminal penalties for in the 1916 Act go well beyond the antidumping provisions of the WTO.

The United States disagreed, saying that the 1916 Act is more akin to an anti-trust statute than the antidumping statutes maintained pursuant to the Antidumping Agreement, against which the 1916 Act was measured. It permits private lawsuits for treble damages and criminal penalties against importers of products sold below market value. In addition to showing the requisite low-priced imports, a successful 1916 Act claim must prove a specific intent to injure a U.S. industry.